

REMARKS

This application has been carefully reviewed in light of the Office Action dated October 6, 2004 and the Advisory Action dated January 25, 2005. Claims 1, 3, 5 to 13, 15, 17 to 25, 27, 29 to 37, 39 and 41 to 52 are pending in the application, of which Claims 1, 13, 25 and 27 are independent. Reconsideration and further examination are respectfully requested.

Applicant wishes to thank the Examiner for the courtesies and thoughtful treatment accorded Applicant's undersigned representative during the February 4, 2005 telephonic interviews. This Amendment has been prepared in accordance with the discussions and agreements reached during those interviews.

In more detail, the points noted in the Advisory Action and the Office Action regarding issues raised under 35 U.S.C. § 112, first paragraph were discussed. Specifically, it was discussed that, while the Examiner believes the claims are enabled by the specification for the amplification of polymorphic nucleic acids (e.g., DNA), the specification may not be enabled for the amplification of any nucleic acid other than polymorphic DNA. Thus, the Examiner believed that amending the claims to change the term "nucleic acids" to read "polymorphic DNA" would adequately address the § 112 issues. However, Applicant's representative believed that the specification is enabled for other nucleic acids besides DNA. Specifically, Applicant's representative directed the Examiner to the description at page 12, line 32 to page 13, line 3 of the specification, which states:

It should be noted that while the following description focuses on DNA, the invention is not limited to use with DNA but can be utilized with data obtained by the analysis of virtually any "nucleic acid", which can

readily be understood to encompass at least DNA, RNA, tRNA, mRNA and rRNA.

Thus, although the process described in the specification focuses on the analysis of polymorphic DNA, the process can be used for at least any of the other described nucleic acids (i.e., RNA, tRNA, mRNA and rRNA). Accordingly, Applicant believes that the specification is enabled for “identifying and classifying data obtained by the amplification of polymorphic nucleic acids in order to identify alleles”. The Examiner agreed with Applicant’s position and agreed that amending the claims to recite the foregoing would adequately address the § 112 issues.

Applicant’s representative also inquired as to whether or not the Examiner would be agreeable to Applicant adding new dependent claims merely to recite the various types of polymorphic nucleic acids. The Examiner agreed to permit Applicant to add such claims and thus, new Claims 49 to 52 have been added herein.

In view of the foregoing amendments and remarks, the entire application is believed to be in condition for allowance and such action is respectfully requested at the Examiner’s earliest convenience.

Applicant's undersigned attorney may be reached in our Costa Mesa,
California office at (714) 540-8700. All correspondence should continue to be directed to
our below-listed address.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'E. Kmett', is written over a horizontal line.

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